

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(B)

O.A. NO.1908/2002

This the 25th day of July, 2003

HON'BLE SHRI V.K.MAJOTRA: MEMBER (A)

Om Narain S/O Sewa Ram.
Ex-Assistant Cashier.
Delhi Milk Scheme.
R/O 502/2 Janata Flats.
Paschimpuri.
New Delhi-110063.

... Applicant

(By Shri K.K.Puri, Advocate)

-versus-

1. Union of India through
Secretary, Department of
Animal Husbandry & Dairying,
Ministry of Agriculture,
Krishi Bhawan, New Delhi.
2. General Manager,
Delhi Milk Scheme,
Govt. of India,
West Patel Nagar,
New Delhi-110008.

... Respondents

(By Shri R.N.Sinha, Advocate)

O R D E R

Through this OA applicant has challenged his premature retirement from service w.e.f. 15.3.2001 under FR-56 and rule 48 of the Central Civil Service (Pension) Rules, 1972. Earlier applicant had filed OA No.1093/2002 against the said premature retirement which was disposed of by order dated 29.4.2002 (Annexure A-3) directing respondents to dispose of applicant's representation by a detailed and speaking order. Vide Annexure A-1 dated 12.6.2002 respondents have disposed of applicant's representation dated 12.4.2001 rejecting the same.

2. The learned counsel of applicant raised the following contentions :

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(1) While applicant completed 55 years of age in April 1998, respondents reviewed his case for premature retirement much beyond the time schedule and retired applicant prematurely on 15.3.2001 which makes the action of respondents illegal and invalid.

(2) Services of applicant have been satisfactory inasmuch as he had been promoted on the basis of his record as Assistant Cashier w.e.f. 12.3.1990 and was also accorded financial upgradation under the Assured Career Progression (ACP) Scheme on 29.6.2001 (even after his premature retirement on 15.3.2001).

(3) While retirement on completion of 30 years qualifying service can be effected only in public interest, the same has not been clarified in the impugned orders and that applicant's record of service has been satisfactory and he had been accorded promotion in 1990 and financial upgradation under the ACP Scheme in 2001.

(4) While under the relevant instructions the screening committee should have reviewed applicant's case for compulsory retirement six months prior to completion of 30 years of qualifying service, which he had completed on 9.6.1996, the review meeting had been held by the screening committee several years after the prescribed time schedule. Accordingly, the learned counsel stated that

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respondents have decided to dispense with the service of applicant on extraneous considerations.

3.. The learned counsel of respondents stated that under FR-56 or rule 48 of the Pension Rules a Government servant belonging to Group 'C' post, as the applicant, can be prematurely retired. Under FR-56 such a person should have attained the age of 55 years and under rule 48 of the Pension Rules retirement of a Government employee is possible by giving him three months' notice in public interest after he has completed 30 years of qualifying service for pension. The learned counsel stated that such cases have to be reviewed six months before they attain the age of 50/55 years or completion of 30 years of qualifying service, whichever occurs earlier. However, he stated that it is not obligatory that a person cannot be retired after attainment of 55 years of age or completion of 30 years of service. In the present case, the learned counsel stated that for some administrative reasons, the review of such cases could not take place for some years and it was initiated in the year 2001, i.e., much after applicant had completed 30 years of service on 9.6.1996 or 55 years of age on 5.4.1998. The learned counsel maintained that such cases can be reviewed any time after the stipulated period.

4.. Arguments in the case were heard on 14.7.2003. Respondents were directed to produce relevant record of the screening committee by 16.7.2003. They have failed to submit the record till 16.7.2003.

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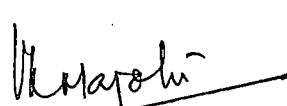
5. Related instructions regarding premature retirement of Central Government servants have been placed at Annexure R-I. In accordance with the prescribed time schedule for review in such cases, review has to be made six months prior to attainment of the age of 50/55 years or completion of 30 years of service. Obviously, review in the case of applicant by the screening committee had been made quite a few years later than the prescribed time schedule. However, it cannot be held that non-holding of the review committee six months prior to the attainment of 50/55 years of age or completion of 30 years of service will vitiate the action of the Government in retiring a person on the recommendations of the screening committee.

6. It has not been denied by respondents that applicant had been promoted in 1990 and that he had been accorded financial upgradation under the ACP Scheme in 2001. It is also established from Annexure R-II dated 9.8.1999 which relates to the ACP Scheme that such upgradation can be granted only on fulfilment of normal promotion norms (benchmarks, departmental examinations etc.). When applicant had been promoted in the rank of Assistant Cashier in 1990 and accorded financial upgradation under the ACP Scheme in 2001, it cannot be said that his performance has been bad or his record has not been satisfactory. The question, therefore, arises how can such a person be retired in public interest. This could be ascertained from the proceedings of the screening committee. Respondents were afforded an opportunity to produce the relevant record, however, they

have failed to produce the same. An adverse inference has, therefore, to be drawn against respondents and held that the action of compulsory retirement against applicant has been taken for extraneous reasons. In the case of **State of Gujarat v. Umedbhai M. Patel**, 2001 SCC (L&S) 576, it was found that no adverse entries existed in the confidential records of the concerned employee and the last two Efficiency Bars (at the age of 50 and 55) had been successfully crossed by him. In this background, it was held that order of compulsory retirement had been passed for extraneous reasons. Similar is the situation in the present case. Reliance can certainly be placed on this ratio for finding that mere statement that applicant had been retired prematurely in public interest is hollow and unsubstantiated, when respondents have not produced the proceedings of the screening committee and when applicant had been promoted and granted financial upgradation following promotional norms in the last decade of his career.

7. In the totality of the facts and circumstances of the case and for reasons described above, Annexures A-1 and A-2 dated 12.6.2002 and 15.3.2001 respectively are quashed and set aside with all consequential benefits deeming applicant to have continued in service till the date of superannuation, i.e., 30.4.2003.

8. The OA is allowed in the above terms. No costs.


(V. K. Majotra)

Member (A)

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